

**Swalcliffe Park Equestrian  
Park Lane  
Swalcliffe**

**16/01552/F**

**Case Officer:** Bob Neville

**Contact:** 01295 221875

**Applicant:** Swalcliffe Park Equestrian

**Proposal:** Variation of condition no. 5 (Noise Management Plan) of Application 14/01762/F

**Expiry Date:** 02.11.2016

**Ward:** Cropredy, Sibfords and  
Wroxton

**Committee Date:** 27.10.2016

**Ward Councillors:** Cllr Atack, Cllr Reynolds, Cllr Webb

**Reason for Referral:** Public Interest

**Recommendation:** Refusal

## **1 APPLICATION SITE AND LOCALITY**

- 1.1 The site is an area of land of approximately 39 hectares, which forms part of Swalcliffe Grange Farm, located just south-west of the village of Swalcliffe, east of Sibford Ferris and some 6 miles from Banbury. It is an area of undulating landscape in predominantly mixed equestrian and agricultural use, accessed by narrow rural lanes (in some places only single-track). The site is largely bounded by existing mature field hedgerows, although stock-proof fencing and a relatively new hedgerow has been planted along Grange Lane to the west. There are residential properties immediately adjacent the site, with further residencies within the villages of Swalcliffe (to the north-east) and Sibford Ferris (to the west).
- 1.2 The site is currently used for day-to-day equestrian training and equestrian competitions/events that attract a large number of competitors; such as the British Eventing Horse Trials which have seen some 500 riders taking part in the event over two days.
- 1.3 In terms of site constraints, the site is not within a conservation area and there are no listed buildings within close proximity. There are Public Rights of Way located to the south and east of the site.

## **2 DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1 Planning permission (14/01762/F) was granted in May 2015 for, in part, the use of land at Grange Farm for mixed use comprising part agricultural, and part equestrian training and competitions (Use Class D2) by Swalcliffe Park Equestrian; the permission was granted subject to a schedule of conditions. Condition 5 of the permission (14/01762/F) seeks to protect the amenity of neighbouring properties and the surrounding area by ensuring that equestrian events of greater than 50 competing horses take place in accordance with a Noise Management Plan (NMP).

Condition 5 reads:

*'Equestrian events of greater than 50 competing horses taking place on site shall be in accordance with, the Noise Management Plan (NMP) dated 28th May 2015, ref. 'ID!BRi' detailing the methods to be employed to achieve compliance with a noise limit of at 45 dB L<sub>A eq</sub> (15mins), when measured free field at noise sensitive locations adjacent the residential properties of Partway House, Elm Farm, Swalcliffe House and Wykham, shown on the attached plan ref. CDC-01.*

*No operational changes shall be made in relation to noise management without prior written approval by the Local Planning Authority in which case a revised NMP shall be submitted approved through the submission of a further 'approval of details reserved by condition' application.*

*Reason - In order to safeguard the amenities of the area and to comply with Policy ENV1 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework'.*

- 2.2 This current application seeks permission under Section 73 of the Town and Country Planning Act 1990 to vary condition 5 of 14/01762/F, to allow for an increased noise limit of 55 dB L<sub>A eq</sub> (15mins) and a revision to the NMP to change the assessment methodology for noise during events and operations at the site.

### **3 RELEVANT PLANNING HISTORY**

- 3.1 14/01762/F - Use of land at Grange Farm for mixed use comprising part agricultural, part equestrian training and competitions (Use Class D2); retention of 1no. access and relocation of 1no. access on to the road leading from the B4035 to Sibford Ferris; extension to existing parking area and retention of equestrian jumps and obstacles; as detailed in agent's letter dated 22nd December 2014. Permitted 29.05.2015
- 3.2 15/00392/DISC - Discharge of Conditions 8 and 15 of 14/01762/F. Permitted 16.11.2015.
- 3.3 Please note that this is not a complete summary of the planning history at the site and that there have been further applications at the site, but these are not considered to be directly relevant to the current proposal.

### **4 PRE-APPLICATION DISCUSSIONS**

- 4.1 No pre-application discussions have taken place with regard to this proposal.

### **5 RESPONSE TO PUBLICITY**

- 5.1 This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records.
- 5.2 The comments raised by third parties in objection are summarised as follows:
- Existing levels of noise are intrusive;
  - No justification for increased noise level or change in noise management/assessment methodology;

- The justification for increasing the limit to 55 dB LAeq,15min is technically flawed and incorrect (clarified in 'WBM Acoustic Consultants' report dated 26 August 2016);
- Monitoring has been undertaken which concludes that the existing levels can be complied with;
- No consideration of other methods of delivering commentary;
- The proposed new sound limit is the same as used for open air concerts.

5.3 The comments raised by third parties in support are summarised as follows:

- The present imposed noise levels are unreasonable and unrealistic as they seem to be regularly exceeded by usual day to day activities in the vicinity and would not allow this local business to operate their events.

5.4 The comments received can be viewed in full on the Council's website, via the online Planning Register.

## 6 RESPONSE TO CONSULTATION

6.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

### PARISH/TOWN COUNCIL

6.2 SIBFORD FERRIS PARISH COUNCIL: **Objects.** *'Reason for objection: to prevent increased nuisance to the residents of Sibford Ferris affected when amplification is used on events days'.*

6.3 SWALCLIFFE PARISH COUNCIL: **Does not object to the application, but makes the following comments:** *'To use the hand held measuring device to not only measure the noise level at 1 metre from the loudspeaker but measure the actual noise level at locations A, B & C, rather than rely on the graph in Appendix B to determine the calculated noise level at these locations. This can be done during the set up or as a final check after the set-up'.*

### STATUTORY CONSULTEES

6.4 None undertaken

### NON-STATUTORY CONSULTEES

6.5 CDC ENVIRONMENTAL PROTECTION MANAGER: **Objects.** *'The reason put forward that the existing limit is unreasonable and renders the proposed development unworkable is not justified'.*

## 7 RELEVANT NATIONAL AND LOCAL PLANNING POLICY AND GUIDANCE

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

7.2 The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

7.3 Cherwell Local Plan 2011 - 2031 Part 1 (CLP 2031)

ESD 15: The Character of the built and historic environment

7.4 Cherwell Local Plan 1996 (Saved Policies) (CLP 1996)

C31: Compatibility of proposals in residential areas

AG5: Horse-related development

ENV1: Development likely to cause detrimental levels of pollution

7.5 Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Noise Policy Statement for England (NPSE) (Department for Environment, Food and Rural Affairs (DEFRA) 2010)

## 8 APPRAISAL

8.1 The National Planning Practice Guidance (PPG) advises: *In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question. (Paragraph: 031, Reference ID: 21a-031-20140306).*

8.2 The key issues for consideration in this case are:

- Whether the existing noise condition is overly restrictive and placing unnecessary burdens on Swalcliffe Park Equestrian, to the extent that it would be to the detriment of their business operations; and,
- Whether the proposed amended noise limit and revised NMP would result in significant detrimental impacts on the amenities of neighbouring properties and the surrounding area.

8.3 The purpose of the planning system is to contribute to the achievement of sustainable development, which is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. There are three dimensions to sustainable development. These are environmental, social and economic.

8.4 The NPPF sets out the Government's view of what sustainable development means in practice for the planning system. It is clear from this that sustainability concerns more than just proximity to facilities, it clearly also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy, and working to secure a healthy environment in which both present and future generations can prosper. Effective noise management is considered key in meeting objectives for promoting good health and a good quality of life (NPSE, 2010).

8.5 The NPPF (Para. 123) sets out that planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;

- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
  - identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.
- 8.6 The Government has further produced a Noise Policy Statement for England (NPSE) which looks to *'Promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development'*; setting out its aims as being:
- 'Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:*
- *avoid significant adverse impacts on health and quality of life;*
  - *mitigate and minimise adverse impacts on health and quality of life; and*
  - *where possible, contribute to the improvement of health and quality of life'.*
- 8.7 Policies within the Cherwell Development Plan look to echo these aims and are considered consistent with Government policy guidance. Saved Policy C31 of the CLP 1996 requires that in existing residential areas any development which is not compatible with the residential character of the area, should not cause an unacceptable level of nuisance or visual intrusion. Saved Policy AG5 seeks to ensure that horse-related development would not be detrimental to the amenity of neighbouring properties. These provisions are echoed in Policy ESD15 of the CLP 2031 which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.
- 8.8 Saved Policy ENV1 of the CLP 1996 states that developments that are likely to cause material detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted. The policy states further at paragraph 10.4 that: *'The Council will seek to ensure...in particular the amenities of residential properties, are not unduly affected by development proposals which may cause environmental pollution'*.
- 8.9 The Council's Environmental Protection Manager (EPM) has assessed the proposals set out within the application and considers that the current noise level set within condition 5 of 14/01762/F is appropriate and compliance with this level and the provisions of the NMP are achievable and therefore that there is not sufficient justification to warrant considering revisions as set out in the application. Officers see no reason not to agree with this opinion.
- 8.10 The applicant refers to levels set out within the World Health Organisation's (WHO) guidance within their Noise Report, prepared by acoustic consultants iD!BRi. The WHO guidelines state that: *'To protect the majority of people from being seriously annoyed during the daytime, the sound pressure level on balconies, terraces and outdoor living areas should not exceed 55dB  $L_{Aeq}$  for a steady, continuous noise. To protect the majority of people from being moderately annoyed during the daytime, the outdoor sound pressure level should not exceed 50dB  $L_{Aeq}$ '.*
- 8.11 The EPM advises that: *'These daytime levels are for steady, continuous noise such as road traffic and are given as 16hour  $L_{Aeq}$ 's. It is not appropriate to apply the WHO guidelines to noise from the equestrian events which can be intermittent and variable, for example the operation of the PA system. In fact such acoustic*

*characteristics can make the noise more noticeable and annoying increasing the significance of the impact’.*

- 8.12 Furthermore the EPM advises that: *‘The assessment criteria in the Noise Council ‘Code of practice on environmental noise control from concerts is really for assessing music sound from concerts, however the principal of applying a level of +15dB to the background noise level (LA90 level) where there are between 4 and 12 concerts, in this case event days, has been applied. iD!BRi have stated that based on the background noise levels measured by them +15dB would approximately equate to the WHO guideline levels of 50 to 55dB. Background levels will vary day to day and lower levels have been measured by both iD!BRi and others, adding 15dB to these would give similar levels to that of the existing noise condition’.*
- 8.13 The PPG (Paragraph: 005 Reference ID: 30-005-20140306) advises that where noise is perceived as being noticeable and intrusive, and that there is an observed adverse effect, actions should be taken to mitigate and reduce to a minimum noise impacts.
- 8.14 In approving application 14/01762/F the Council acknowledged that the larger equestrian events would likely result in some levels of intrusive noise. Condition 5 (noise limit and NMP) was considered appropriate and necessary to be applied to permission 14/01762/F, in order restrict noise levels to an acceptable level and to safeguard the amenities of the area, and to comply with Policy ENV1 of the CLP 1996 and Government guidance contained within the NPPF. Although the level is 5 dB lower than that indicated as being an acceptable community noise target (50 dB) within the current British Standard BS 8233:2014, it is considered that given the context of the site and its tranquil rural nature that this was an appropriate level for the noise limit to be set at; to ensure that the amenity of the neighbouring properties and also those further afield within the village would not be significantly affected by the larger events taking place. It should also be noted that this condition was not challenged following the granting of permission.
- 8.15 The proposed revised NMP and rewording of condition 5 removes the requirement for noise monitoring at dwellings. Instead the proposal appears to set limits for Public Address (PA) loudspeakers and items of plant, depending on their relative distance from the dwellings; using a chart provided in Appendix B of the revised NMP; which charts noise levels against distance. The applicants indicate that the calculations within the chart are intended to result in a level of 40 dB  $L_{pA}$ , at the specified distance, which would appear to result in a better situation than the current 45 dB  $L_{Aeq}$  (15min). However, this approach does not take into account cumulative noise levels from the various noise sources, topography of the site or meteorological conditions. It is considered that the methodology set out in the revised NMP would not provide an appropriate mechanism for the monitoring and enforcement of an appropriate noise level, to ensure that there would be no significant detrimental impact on the amenities of adjacent residential properties or the wider area, as a result of large events taking place.
- 8.16 The applicants indicate that the restrictive condition has the *‘...potential to impact adversely and unreasonably on Swalcliffe Park Equestrian’s on-going operation.’* However, the potential adverse impacts have not been expanded upon or demonstrated within the application’s supporting documentation. In particular there is no clear evidence that the condition as currently worded is restricting or preventing the business from operating within the terms of the planning permission.
- 8.17 Following complaints being raised by local residents that the provisions of Condition 5 of 14/01762/F were not being complied with, the Council’s Environmental Protection Team undertook a monitoring exercise of an event that was held on site over the weekend of the 5<sup>th</sup> to the 7<sup>th</sup> of August; with the site being visited on Friday the 5<sup>th</sup> and Sunday the 7<sup>th</sup>.

- 8.18 The monitoring of the event concluded that the noise levels were satisfactory. The measured noise levels as a result of activities on the site (other extraneous sounds were paused out of the measurements) during that event were at or within the level of 45dB  $L_{Aeq}$  (15mins) required by condition 5 on the planning consent (14/01762/F). The applicants can therefore clearly host an event that complies with the provisions of noise management condition, and officers can see no reason why this cannot be replicated on future events.

#### Other Matters

- 8.19 Comment has been made with regard to the potential for other methods of relaying commentary to spectators not being explored at the site. The principle of the use of PA speakers has been accepted, subject to the limits set out within condition 5 of the permission, with the approval of 14/01762/F. Given the nature of the current application, (i.e. variation of the noise condition which does not presently preclude the use of PA speakers) it not considered appropriate to now suggest that PA speakers should not be used, and as such alternatives have not been pursued by officers in the context of this application.

## **9 CONCLUSION**

- 9.1 Officers consider that the applicant has failed to demonstrate that the existing noise limit restriction, imposed by the provision of condition 5 of 14/01762/F, is unduly onerous or has adversely impacted on the business operations of Swalcliffe Park Equestrian at the site. Officers consider that by allowing an unjustified increase in the noise limit, above that currently considered acceptable, that larger events would likely result in significant harmful levels of noise that would be detrimental to the amenities of neighbouring residential properties and the wider rural area. Furthermore the revised NMP does not provide an appropriate mechanism for the monitoring and enforcement of an appropriate noise level to ensure that there would be no significant detrimental impact on the amenities of the area as a result of large events taking place.
- 9.2 Given the above assessment the proposals are considered to be contrary to the policies identified in Section 7 of this report and the application is therefore recommended for refusal for the reason set out below.

## **10 RECOMMENDATION**

- 10.1 That permission is refused, for the following reason:

1. The proposal to increase the maximum noise level at which the current use is permitted to be operated at would likely result in levels of noise that would be intrusive and harmful to the amenities of neighbouring residential properties and the wider rural area. This harm is considered significant and unjustified and the proposal is therefore contrary to the provisions of Saved Policies AG5, C31 and ENV1 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework and Planning Practice Guidance.